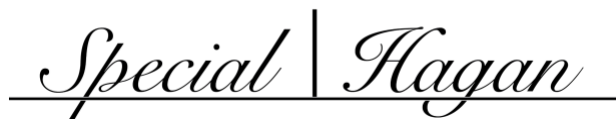


THE LAW OFFICES OF



196-04 HOLLIS AVENUE
SAINT ALBANS, NEW YORK 11412
P: (917) 337-2439
SPECIAL@HAGANLAWOFFICES.NET

Friday, December 3, 2021

VIA ECF

Honorable District Judge John P. Cronan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Courtroom 20C
New York, New York 10007-1312

Re: Kaye v. Health and Hospitals Corporation et. al.
18-CV-12137(JPC)(JLC)

Dear Honorable District Judge Cronan:

I respectfully write the Court to request additional time to respond to Defendants' letter notification for their anticipated motion for summary judgment. Pursuant to Fed. R. Civ. P. 72, Plaintiff objects to Judge Cott's Order rendered on December 2, 2021. (ECF 189) Defendants previously sought leave of the Court to apply for additional time to depose Plaintiff, Dr. Kaye on her First Amendment and Whistleblowing claims. Respectfully, without the transcript and without leave of the Court, Plaintiff would be denied the ability to fully litigate this claim. To date, even after numerous requests, Defendants have not furnished Plaintiff's deposition transcript. Accordingly, as an accommodation to the various schedules involved, Plaintiff sought leave of the Court to depose Plaintiff on the remaining claims pursuant to Fed. R. Civ. P. 31.

At the time of Defendants' motion, Plaintiff objected to Defendants' application. Consistent with precedent in this Circuit, a determination whether additional time is necessary requires the Court to review the transcript beforehand. In further opposition, Plaintiff notified the Court that the stenographer's computer crashed before I had the opportunity to pose any questions to Dr. Kaye. Therefore, Plaintiff seeks leave of the Court to first review her deposition and to make any corrections as is standard practice. She further seeks leave of the Court to determine whether additional time is necessary in order to fully litigate her First Amendment and Whistleblowing claims.

Again, in light of the holidays and the parties' respective schedules, in the event the additional time is necessary, Plaintiff seeks to complete her deposition pursuant to Fed. R. Civ. P. 31. However, in the alternative, Plaintiff proposes the alternative dates of December 27, 28, 29th or 30th to complete her deposition via Zoom.

Respectfully submitted,

/s/

THE LAW OFFICES OF

Special | Hagan


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Special Hagan, Esq.
Attorney for Melissa Kaye, MD

Cc: Donna Canfield,
Counsel for Defendants

The Rule 72 objection to the order at Dkt. 192 is denied. Judge Cott did not abuse his discretion by finding that the request for a written deposition was untimely and that expedited processing of the transcript is unnecessary. *See Deptula v. Rosen*, No. 20 Civ. 2371 (JPC), 2020 WL 8922802, at *2 (S.D.N.Y. Dec. 3, 2020) (standard of review). Moreover, Judge Cott's order denying the request for additional time to depose the witness without prejudice, Dkt. 188, was not objected to within fourteen days, and thus is final, Fed. R. Civ. P. 72(a). The Court also denies the request to extend the deadline for Plaintiff's opposition to Defendant's pre-motion letter.

SO ORDERED.
Date: December 3, 2021
New York, New York


JOHN P. CRONAN
United States District Judge